

DISTRICT COURT OF THE VIRGIN ISLANDS

DIVISION OF ST. CROIX

UNITED STATES OF AMERICA,

Plaintiff,

v.

LIMETREE BAY TERMINALS, LLC,
WEST INDIES PETROLEUM LTD.,
PORT HAMILTON REFINING &
TRANSPORTATION, LLLP,
TRANSITION REFINERY
ENTITY, LLLP,

Defendants.

1:21-cv-00264-WAL-EAH

TO: **Myles E. Flint, II, Esq.**
For the United States

Carl A. Beckstedt, III, Esq.
Corinne V. Snow, Esq.
For Limetree Bay Terminals, LLC

Andrew C. Simpson, Esq.
*For West Indies Petroleum Limited
& Port Hamilton Refining & Transportation, LLLP*

ORDER TO SHOW CAUSE

THIS MATTER comes before the Court sua sponte.

Plaintiff, the United States, commenced this action by filing a Complaint in July 2021, against Defendants Limetree Bay Refining, LLC ("LBR") and Limetree Bay Terminals, LLC ("Terminals"), at the request of the U.S. Environmental Protection Agency ("EPA"). Dkt. No.

1. The United States brought the action due to emissions of various air pollutants in early 2021, in addition to the risk of a catastrophic failure of emissions control systems at the Refinery located at Limetree Bay, St. Croix, that posed an imminent and substantial danger

United States v. Limetree Bay Terminals, LLC
1:21-cv-00264-WAL-EAH
Order
Page 2

to public health and the environment. *Id.* at 1-2. While the Refinery was not operating at that time, it could not be restarted or operated safely without LBR and Terminals complying with environmental and safety audit requirements set forth in a May 2021 EPA administrative order that would remain in force only if aided by an order of the district court. *Id.* at 2. The United States sought injunctive relief under the Clean Air Act to require compliance with the May 2021 order, restrain LBR and Terminals from emitting various pollutants, and require them to take additional necessary steps to cease the endangerment to public health or the environment. *Id.* at 3.

Simultaneously with the filing of the Complaint, the United States filed an Unopposed Motion to Stay All Deadlines, given the then-Defendants' changed circumstances—the Refinery was idle and the Defendants did not intend to restart it except to bring it to a state of indefinite shutdown. Dkt. No. 3. The Court granted the motion. Dkt. No. 4. Subsequently, the United States moved multiple times to extend the stay, which the Court granted. Dkt. Nos. 7, 10, 12, 17. In August 2022, the United States filed another Joint Motion to Stay All Deadlines and Proceedings until December 1, 2022, although it noted that it expected to file a motion to substitute. Dkt. No. 20. The Court granted the extension motion. Dkt. No. 21.

In November 2022, the United States moved for an Order Substituting West Indies Petroleum Limited ("WIPL"), Port Hamilton Refining and Transportation, LLLP ("PHRT"), and the Transition Refinery Entity LLC, for Defendant Limetree Bay Refining, LLC pursuant to Fed. R. Civ. P. 25(c). Dkt. No. 23. The Court granted the motion to substitute in November

United States v. Limetree Bay Terminals, LLC
1:21-cv-00264-WAL-EAH
Order
Page 3

2022, Dkt. No. 25, and denied a motion for reconsideration filed by PHRT and WIPL in January 2023. Dkt. No. 39.

Given that this case was stayed immediately after the Complaint was filed, none of the then-Defendants filed answers or other responses to the Complaint. Now that LBR is no longer a Defendant, PHRT, WIPL, and the Transition Refinery Entity have been substituted as Defendants, and the stay has expired, it is incumbent that the case proceed. However, the United States has taken no action to advance this matter since substitution was effected.

Based upon the foregoing, it is now hereby **ORDERED** that, on or before **Wednesday, April 5, 2023**, the United States shall show cause by filing a written response why this matter should not be dismissed for failure to prosecute.

ENTER:

Dated: March 22, 2023

/s/ Emile A. Henderson III
EMILE A. HENDERSON III
U.S. MAGISTRATE JUDGE